

# *State of Missouri*

## *Rationale for Draft High Flow Exemption 10 CSR 20-7.015(9)(I)*



**Missouri Department of Natural Resources**  
Water Protection and Soil Conservation Division  
Water Protection Program

**Rationale for the *draft* High Flow Exemption rule at 10 CSR 20-7.015(9)(I)**

The proposal tries to achieve these basic goals-

- 1) The rule must be protective of existing recreational uses. Attainable (but non-existing) uses are not necessarily protected under this rule.
- 2) The rule must be acceptable by EPA in resolving their concerns expressed in the September 8, 2000, program review regarding the current rule on high flow exemptions.
- 3) The rule must be feasible to implement by point sources (permittees) and non-point sources.
- 4) The rule must facilitate resolution of other wet-weather issues (such as development of new approach to regulating CSOs and allows reasonable derivation and application of permit limits and conditions relative to storm water influences).
- 5) The rule must be understandable by the general public and Commission.

The current rule is an “exemption” from water quality standards. What we are proposing is a “suspension” of the accountability of certain dischargers for water quality effects during defined wet-weather events. Therefore, the focus is more on assessing the conditions at the facility (or discharging site) as opposed to a blanket removal of water quality standards based on stream conditions. This allows the department to grant relief individually to each discharger based on what they can or can’t achieve in bacteria controls and/or treatment during wet-weather events.

Because the focus is on effluent control as opposed to an exemption from water quality standards, we placed the rule language within the Effluent Rule at 10 CSR 20-7.015(9)(I).

Relief is granted where a discharger has reduced bacterial contributions to the stream to the maximum extent practicable (MEP). MEP is determined by meeting the following criteria:

- 1) The discharger has developed and is in compliance with a plan for bacteria control and/or treatment during wet-weather and the Clean Water Commission approves the plan. The plan may be incorporated into the Long-term Control Plan for CSOs or may be part of a Watershed Management Plan applicable to either point or non-point sources.
- 2) To be approved, a plan must show that all reasonable BMPs and technology-based treatment requirements are met (for point sources, these may be the dry-weather related technology standards such as secondary treatment for POTWs, Effluent Limitation Guidelines for Industries, or the technology considerations embodied in the EPA CSO Policy). A suspension of accountability is offered only where water-quality based discharge limits are needed to achieve standards.
- 3) The cost for providing the additional treatment or control would result in widespread social and economic hardship. Only the specific controls and/or treatment that creates the hardship may be absent from the approved plan. Potential sources for

evaluating substantial widespread social and economic impacts, which provide criteria for decision making, include:

- USEPA's *Interim Economic Guidance for Water Quality Standards Workbook* (EPA 823-B-95-002, <http://www.epa.gov/waterscience/standards/econworkbook/>) or
  - USEPA's *Combined Sewer Overflows—Guidance for Financial Capability Assessment and Schedule Development* (EPA 832-B-97-004, <http://www.epa.gov/npdes/pubs/csofc.pdf>).
- 4) The plan must clearly describe the period of relief by date and time. The period of relief must be restricted to a defined wet-weather event, such as a specific flow rate or other treatment *feasibility factor* that occurs only during wet-weather. The period must be determinable at any time by the discharger, the department and general public (such as an inflow at a treatment plant or other condition on which records are or can be kept).
- 5) An assessment must be conducted for *existing* uses within the receiving stream during the proposed period of relief. The assessment must on the first receiving stream and include no less than the first two miles below the discharge point (i.e. the point where effluent enters waters of the state). And, the length of stream to be assessed must extend to the point where bacteria standards are reasonably certain to exceed the standards for recreational uses, if that involves more than two miles. This does not need to be a Use Attainability Analysis (UAA) in that the search is only for *existing* uses, not for use attainability. The assessment must be performed during the recreational season from April 1 to October 31.

#### Draft Rule Language

##### 10 CSR 20-7.015(9)

(I) Temporary Suspension of Accountability for Bacteria Standards during Wet Weather. The accountability for bacteria standards may be temporarily suspended for specific discharges when conditions contained in paragraphs (9)(I)1. through 3. are met.

1. No recreational use exists within two (2) miles downstream of the discharge during the period of suspension as confirmed through a use assessment.

2. Compliance with water quality based discharge controls more stringent than secondary treatment standards for domestic wastewater treatment systems, approved watershed management plans, or approved long-term control plans (LTCPs) for combined sewer overflows (CSOs) would result in substantial and widespread economic and social impact.

3. The Missouri Clean Water Commission has approved the suspension.